

STEVENSON MARINOLLP

Justin R. Marino, Principal d: (212) 939-7228 f: (212) 531-6129
a: 75 Maiden Lane, Suite 402, New York, NY 10038 e: jmarino@stevensonmarino.com

June 9, 2017

VIA ECF FILING

The Honorable Carol Bagley Amon, U.S.D.J.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Derrick Anderson v. Sela Group Hotel LLC*,
Index No.: 17-cv-2133 (CBA) (ST)

Dear Judge Amon:

This office represents Defendant Sela Group Hotel LLC ("Defendant") in the above-referenced action. Pursuant to Rule 3(A) of Your Honor's Individual Motion Practices and Rules, Defendant writes to request a pre-motion conference to discuss its intent to file a motion to dismiss the above referenced Action. In this Action, Plaintiff alleges that he is visually impaired and Defendant's website discriminates against him in violation of the Americans with Disabilities Act ("ADA") and the New York State Human Rights Law ("NYSHRL") because he is unable to make a reservation online without the assistance of a third party.¹ See Complaint, ¶ 7 (Dkt. 1, filed Apr. 7, 2017).

Defendant seeks a pre-motion conference so that it may move to dismiss the action pursuant to Federal Rule 12(b)(6) for failure to state a claim. Specifically, Plaintiff has failed to demonstrate that he may maintain this claim where there is a telephonic reservation system that is staffed twenty-four hours per day and can be readily ascertained through a screen reader. Additionally, Defendant challenges the Action on the grounds that: (1) the website is not a "place of public accommodation" within the meaning of the ADA and NYSHRL; (2) the action violates fundamental principles of due process in the absence of any laws or final rules from governing bodies addressing the standards that apply to websites; (3) Plaintiff has failed to establish a violation of any applicable accessibility standards; and, in the alternative, (4) the Action should be stayed until the Department of Justice ("DOJ") has promulgated accessibility regulations

¹ Defendant notes that, as of June 1, 2017, this action is one out of approximately ten (10) identical lawsuits filed in the Eastern District of New York within the past few months where Derrick Anderson is the sole named Plaintiff. See *Anderson v. Lululemon USA, Inc.* (17-cv-1055 PKC-PK); *Anderson v. Cameron Mitchell Restaurants, LLC* (17-cv-1056-CBA-VMS); *Anderson v. Club Monaco U.S., LLC* (17-cv-1057-NGG-SMG); *Anderson v. Fogo de Chao 53rd Street, New York LLC* (17-cv-1202-CBA-RML); *Anderson v. Guess ?, Inc.* (17-cv-1203-LDH-JO); *Anderson v. Phillips Bryant Park LLC* (17-cv-2134 RJD-VMS); *Anderson v. Derossi Global LLC* (17-cv-3261); *Anderson v. Texas de Brazil (NY) Corporation et al* (17-cv-3263); *Anderson v. Amsterdam Hospitality Group LLC et al* (17-cv-2923 ADS-ARL). Indeed, the Complaint reveals the systematic nature of the allegations, as the redline revisions (as noted as vertical lines on the left side of the page) were not omitted in the final document. See e.g., Complaint.

The Honorable Carol Bagley Amon
June 2, 2017
Page 2 of 2

governing the website or mobile applications of private businesses.

Based on the foregoing, we respectfully request a pre-motion conference to address Defendant's intent to file a motion to dismiss the above referenced Action. We thank the Court for its consideration of the above.

Respectfully Submitted,

/s/ Justin R. Marino
Justin R. Marino

Attorneys for Defendant

cc: Plaintiff's Counsel (via ECF only)